

Advisory Committee on Appellate Rules

Table of Agenda Items — March 2007

<u>FRAP Item</u>	<u>Proposal</u>	<u>Source</u>	<u>Current Status</u>
01-03	Amend FRAP 26(a)(2) to clarify interaction with “3-day rule” of FRAP 26(c).	Roy H. Wepner, Esq.	Awaiting initial discussion Discussed and retained on agenda 04/01 Referred to Civil Rules Committee 04/02 Draft approved 11/03 for submission to Standing Committee
03-02	Amend FRAP 7 to clarify whether reference to “costs” includes only FRAP 39 costs.	Advisory Committee	Awaiting initial discussion Discussed and retained on agenda 05/03 Draft approved 11/03 for submission to Standing Committee
03-09	Amend FRAP 4(a)(1)(B) & 40(a)(1) to clarify treatment of U.S. officer or employee sued in individual capacity.	Solicitor General	Awaiting initial discussion Discussed and retained on agenda 11/03; awaiting revised proposal from Department of Justice Tentative draft approved 04/04 Revised draft approved 11/04 for submission to Standing Committee
03-10	Add new FRAP 25.1 to “protect privacy and security concerns relating to electronic filing of documents,” as directed by E-Gov’t Act.	E-Government Subcommittee	Awaiting initial discussion Discussed and retained on agenda 04/04 Discussed and retained on agenda 11/04 Draft approved 04/05 for submission to Standing Committee Approved for publication by Standing Committee 06/05 Published for comment 08/05 Restyled draft approved 04/06 for submission to Standing Committee, with request that Style Subcommittee reconsider style changes Approved by Standing Committee 06/06 Approved by Judicial Conference 09/06
05-01	Amend FRAP 21 & 27(c) to conform to Justice for All Act of 2004.	Advisory Committee	Awaiting initial discussion Discussed and retained on agenda 04/05; awaiting proposal from Department of Justice Discussed and retained on agenda 04/06; Department of Justice will monitor practice under the Act

<u>FRAP Item</u>	<u>Proposal</u>	<u>Source</u>	<u>Current Status</u>
05-05	Amend FRAP 29(e) to require filing of amicus brief 7 <i>calendar</i> days after <i>service</i> of principal brief of party supported.	Brian Wolfman Public Citizen Litigation Group	Awaiting initial discussion Discussed and retained on agenda 04/06; awaiting report from Department of Justice Further consideration deferred pending consideration of items 06-01 and 06-02, 11/06
05-06	Amend FRAP 4(a)(4)(B)(ii) to clarify whether appellant must file amended notice of appeal when court, on post-judgment motion, makes favorable or insignificant change to judgment.	Hon. Pierre N. Leval (CA2)	Awaiting initial discussion Discussed and retained on agenda 04/06
06-01	Amend FRAP 26(a) to adopt template proposed by Time-Computation Subcommittee.	Standing Committee	Awaiting initial discussion Discussed and retained on agenda 04/06
06-02	Amend various rules to adjust deadlines to compensate for new time-computation method.	Standing Committee	Awaiting initial discussion Discussed and retained on agenda 04/06; deadline subcommittee appointed
06-04	Amend FRAP 29 to require that amicus briefs indicate whether counsel for a party authored brief and to identify persons who contributed monetarily to preparation or submission of brief.	Hon. Paul R. Michel (C.J., Fed. Cir.) and Hon. Timothy B. Dyk (Fed. Cir.)	Awaiting initial discussion Discussed and retained on agenda 11/06
06-06	Extend time for NOA and petitions for rehearing in cases involving state-government litigants.	William E. Thro, Virginia State Solicitor General	Awaiting initial discussion Discussed and retained on agenda 11/06
06-07	Add new FRAP rule that would require all federal appellate courts to give at least 10 days' advance notice of the identities of the judges assigned to an oral argument panel.	Howard Bashman, Esq.	Awaiting initial discussion
06-08	Amend FRAP to provide a rule governing amicus briefs with respect to rehearing en banc.	Mark Levy, Esq.	Awaiting initial discussion
07-AP-A	Amend FRAP 32.1 to permit citation to pre-2007 opinions in certain circumstances, and in various other respects.	Robert Kantowitz, Esq. 2/6/07	Awaiting initial discussion.

<u>FRAP Item</u>	<u>Proposal</u>	<u>Source</u>	<u>Current Status</u>
07-AP-B	Add new FRAP 12.1 concerning the procedure to be followed when a district court is asked for relief that it lacks authority to grant due to a pending appeal.	Civil Rules Committee 1/07	Awaiting initial discussion
07-AP-C	Amend FRAP 4(a)(4)(A) and 22 in light of proposed amendments to Rules 11 of the rules governing 2254 and 2255 proceedings.	Criminal Rules Committee 1/07	Awaiting initial discussion
07-AP-D	Amend FRAP to define the term “state.”	Time-computation Subcommittee 3/07	Awaiting initial discussion